

H. R. 3221

# One Hundred Tenth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday,  
the third day of January, two thousand and eight*

## An Act

To provide needed housing reform and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

### **SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Housing and Economic Recovery Act of 2008”.

(b) **TABLE OF CONTENT.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

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Sec. 1001. Short title.

Sec. 1002. Definitions.

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##### **Subtitle A—Improvement of Safety and Soundness Supervision**

Sec. 1101. Establishment of the Federal Housing Finance Agency.

Sec. 1102. Duties and authorities of the Director.

Sec. 1103. Federal Housing Finance Oversight Board.

Sec. 1104. Authority to require reports by regulated entities.

Sec. 1105. Examiners and accountants; authority to contract for reviews of regulated entities; ombudsman.

Sec. 1106. Assessments.

Sec. 1107. Regulations and orders.

Sec. 1108. Prudential management and operations standards.

Sec. 1109. Review of and authority over enterprise assets and liabilities.

Sec. 1110. Risk-based capital requirements.  
Sec. 1111. Minimum capital levels.  
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Sec. 1113. Prohibition and withholding of executive compensation.  
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Sec. 1116. Inclusion of minorities and women; diversity in Agency workforce.  
Sec. 1117. Temporary authority for purchase of obligations of regulated entities by Secretary of Treasury.  
Sec. 1118. Consultation between the Director of the Federal Housing Finance Agency and the Board of Governors of the Federal Reserve System to ensure financial market stability .

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### **TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES**

#### **SEC. 2301. EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.**

**(a) DIRECT APPROPRIATIONS.**—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, \$4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed upon homes and residential properties.

#### **(b) ALLOCATION OF APPROPRIATED AMOUNTS.—**

**(1) IN GENERAL.**—The amounts appropriated or otherwise made available to States and units of general local government under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (in this title referred to as the “Secretary”).

**(2) FORMULA TO BE DEvised SWIFTLY.**—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this section.

**(3) CRITERIA.**—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

- (A) the number and percentage of home foreclosures in each State or unit of general local government;
- (B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and
- (C) the number and percentage of homes in default or delinquency in each State or unit of general local government.

**(4) DISTRIBUTION.**—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

#### **(c) USE OF FUNDS.—**

**(1) IN GENERAL.**—Any State or unit of general local government that receives amounts pursuant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.

**(2) PRIORITY.**—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(A) with the greatest percentage of home foreclosures;

(B) with the highest percentage of homes financed by a subprime mortgage related loan; and

(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

**(3) ELIGIBLE USES.**—Amounts made available under this section may be used to—

(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

(C) establish land banks for homes that have been foreclosed upon;

(D) demolish blighted structures; and

(E) redevelop demolished or vacant properties.

**(d) LIMITATIONS.**—

**(1) ON PURCHASES.**—Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

**(2) REHABILITATION.**—Any rehabilitation of a foreclosed upon home or residential property under this section shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties.

Rehabilitation may include

improvements to increase the energy efficiency or conservation of such homes and properties or provide a renewable energy source or sources for such homes and properties.

**(3) SALE OF HOMES.**—If an abandoned or foreclosed upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

**(4) REINVESTMENT OF PROFITS.**—

**(A) PROFITS FROM SALES, RENTALS, AND REDEVELOPMENT.**—

*(i) 5-YEAR REINVESTMENT PERIOD.*—During the 5- year period following the date of enactment of this Act, any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

*(ii) DEPOSITS IN THE TREASURY.*—

**(I) PROFITS.**—Upon the expiration of the 5- year period set forth under clause (i), any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts, unless the Secretary approves a request to use the funds for purposes under this Act.

**(II) OTHER AMOUNTS.**—Upon the expiration of the 5-year period set forth under clause (i), any other revenue not described under subclause (I) generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use of an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts.

**(B) OTHER REVENUES.**—Any revenue generated under subparagraphs (A), (C) or (D) of subsection (c)(3) shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

**(e) RULES OF CONSTRUCTION.**—

**(1) IN GENERAL.**—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

**(2) NO MATCH.**—No matching funds shall be required in order for a State or unit of general local government to receive any amounts under this section.

**(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—**

**(1) IN GENERAL.**—In administering any amounts appropriated or otherwise made available under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 (except for those related to fair housing, nondiscrimination, labor standards, and the environment) in accordance with the terms of this section and for the sole purpose of expediting the use of such funds.

**(2) NOTICE.**—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 business days before such exercise of authority is to occur.

**(3) LOW AND MODERATE INCOME REQUIREMENT.—**

**(A) IN GENERAL.**—Notwithstanding the authority of the Secretary under paragraph (1)—

- (i)* all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and
- (ii)* not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

**(B) RECURRENT REQUIREMENT.**—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

**(g) PERIODIC AUDITS.**—In consultation with the Secretary of Housing and Urban Development, the Comptroller General of the United States shall conduct periodic audits to ensure that funds appropriated, made available, or otherwise distributed under this section are being used in a manner consistent with the criteria provided in this section.

**SEC. 2302. NATIONWIDE DISTRIBUTION OF RESOURCES.**

Notwithstanding any other provision of this Act or the amendments made by this Act, each State shall receive not less than 0.5 percent of funds made available under section 2301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

#### **SEC. 2303. LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.**

No State or unit of general local government may use any amounts received pursuant to section 2301 to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use: *Provided*, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities.

#### **SEC. 2304. LIMITATION ON DISTRIBUTION OF FUNDS.**

**(a) IN GENERAL.**—None of the funds made available under this title or title IV shall be distributed to—

- (1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office;
- or
- (2) an organization which employs applicable individuals.

**(b) APPLICABLE INDIVIDUALS DEFINED.**—In this section, the term “applicable individual” means an individual who—

- (1) is—
  - (A) employed by the organization in a permanent or temporary capacity;
  - (B) contracted or retained by the organization; or
  - (C) acting on behalf of, or with the express or apparent authority of, the organization; and
- (2) has been indicted for a violation under Federal law relating to an election for Federal office.

#### **SEC. 2305. COUNSELING INTERMEDIARIES.**

Notwithstanding any other provision of this Act, the amount appropriated under section 2301(a) of this Act shall be \$3,920,000,000 and the amount appropriated under section 2401 of this Act shall be \$180,000,000:

*Provided*, That of the amount appropriated under section 2401 of this Act pursuant to this section, not less than 15 percent shall be provided to counseling organizations that target counseling services regarding loss mitigation to minority and low-income homeowners or provide such services in neighborhoods with high concentrations of minority and low-income homeowners:

*Provided further*, That of amounts appropriated under such section 2401 \$30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the “NRC”) to make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys to assist homeowners who have legal issues directly related to the homeowner’s foreclosure, delinquency or short sale. Such attorneys shall be capable of assisting homeowners of owneroccupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure and who have legal issues that cannot be handled by counselors already employed by such intermediaries:

*Provided further*, That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance:

*Provided further*, That no funds provided under this Act shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation:

*Provided further*, That the NRC, in awarding counseling grants under section 2401 of this Act, may consider, where appropriate, whether the entity has implemented a written plan for providing in-person counseling and for making contact, including personal contact, with defaulted mortgagors, for the purpose of providing counseling or providing information about available counseling.

## **TITLE IV—HOUSING COUNSELING RESOURCES**

### **SEC. 2401. HOUSING COUNSELING RESOURCES.**

There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, for an additional amount for the “Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation” \$100,000,000, to remain available until December 31, 2008, for foreclosure mitigation activities under

the terms and conditions contained in the second undesignated paragraph (beginning with the phrase “For an additional amount”) under the heading “Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation” of Public Law 110–161.

#### **SEC. 2402. CREDIT COUNSELING.**

**(a) IN GENERAL.**—Entities approved by the Neighborhood Reinvestment Corporation or the Secretary and State housing finance entities receiving funds under this title shall work to identify and coordinate with non-profit organizations operating national or statewide toll-free foreclosure prevention hotlines, including those that—

- (1)** serve as a consumer referral source and data repository for borrowers experiencing some form of delinquency or foreclosure;
- (2)** connect callers with local housing counseling agencies approved by the Neighborhood Reinvestment Corporation or the Secretary to assist with working out a positive resolution to their mortgage delinquency or foreclosure; or
- (3)** facilitate or offer free assistance to help homeowners to understand their options, negotiate solutions, and find the best resolution for their particular circumstances.